

INSTRUCTIONS FOR FILING A CIVIL RIGHTS COMPLAINT UNDER 42 U.S.C. § 1983:
PRISONER CASES

Note: Pursuant to the Prison Litigation Reform Act, 42 U.S. C. §1997e requires prisoners to exhaust available administrative remedies before initiating a prison condition case under 42 U.S.C. § 1983. Failure to exhaust such remedies will result in dismissal of your case.

Enclosed is a § 1983 complaint form, a Petition and Affidavit to Proceed in forma pauperis, including an Authorization for Release of Institutional Account Information and Payment of the Filing Fee, an information sheet, and a Notice of Lawsuit and Request for Waiver of Service of Summons form. The filing fee is \$350.00 which must be paid at the time the action is filed. If you are unable to pay the fee, you may petition the court for leave to proceed in forma pauperis.

Instructions:

1. You must file with the Clerk of the United States District Court an original complaint and one copy for each defendant that you sue. You also should keep a copy of the complaint for your own records. All copies of the complaint must be identical to the original.

2. Your complaint must be legibly handwritten or typed. The complaint must be signed by each plaintiff and should include the prisoner identification number of each plaintiff. The complaint need not be notarized. Answer each question to the best of your knowledge and belief. Be concise.

3. Provide facts supporting your claims. You must explain what **each** defendant did to violate your federal rights. Include the relief you are requesting from the court.

4. Please try to keep your complaint to the space provided. However, if you need additional space to answer a question or state your claim, attach additional pages to the form. Do not use the back of the form.

5. If you are unable to pay the filing fee, you may petition the court for leave to proceed in forma pauperis by completing and signing, under penalty of perjury, the attached petition and affidavit to proceed without prepayment of fees and/or costs. This need not be notarized. Each plaintiff who seeks to file in forma pauperis must complete a petition and affidavit.

6. You must also file a certified copy of your trust fund account statement for the six month period immediately preceding the filing of the complaint.

7. Sign your name at the bottom of each of the attached Notice of Lawsuit and Request for Waiver of Service of Summons forms and return them with your complaint. DO NOT COMPLETE any other portions of this form. You must sign one form for **each** defendant. You may make copies of the unsigned form or request additional copies from the Clerk's office.

8. When these forms are properly completed, mail them to:

Clerk, United States District Court
United States Courthouse, Rm. 362
517 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

(Full Name of each Plaintiff)

Plaintiff(s),

Case No. _____
(Supplied by Clerk)

v.

(Full Name of each Defendant)

Defendant(s).

COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

I. PLACE OF PRESENT CONFINEMENT (Provide full address)

A. Is there a grievance procedure in your prison/jail? YES ☐ NO ☐

B. Have you filed a grievance concerning the facts relating to this complaint?

YES ☐ NO ☐

C. If you have used the grievance process:

1. Describe what you did and the result, if any.

2. Is the grievance process completed? _____

D. If you did not use the grievance process, explain why not:

NOTE: YOU MUST INCLUDE A COPY OF YOUR INITIAL GRIEVANCE AND ANY SUBSEQUENT DECISIONS BY THE PRISON/JAIL OR A COURT ON YOUR GRIEVANCE.

II. PARTIES

- A. Your name (Plaintiff) _____
- B. Prisoner I.D. Number _____
- C. Social Security Number (Last Four Digits Only) _____
- D. Your Address (City & State) _____
(For additional plaintiffs provide the same information in the same format on a separate page.)
- E. DEFENDANT (name) _____
is employed as _____
at _____
- F. Additional DEFENDANTS (name, position, and place of employment):

III. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court relating to the same facts involved in this action? ☐ YES ☐ NO
- B. Have you begun other lawsuits in state or federal court relating to your imprisonment? ☐ YES ☐ NO
- C. If your answer is YES to either of the above questions, provide the following requested information.
1. Parties to the previous lawsuit
- Plaintiff(s): _____

- Defendant(s): _____

2. Date filed _____
3. Court where case filed (if federal court, name district: if state court, name the county) _____
4. Case number and citation _____
5. Nature of claim _____

6. Current status (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____

7. If resolved, date of disposition _____
8. If resolved, state whether for _____
(plaintiff or defendant)

(For additional cases, provide the above information in the same format on a separate page.)

IV. STATEMENT OF CLAIM

- A. State as briefly as possible the facts of your case. Describe how each named defendant is involved. Include the name of other persons involved, dates, and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra pages, if necessary. Unrelated separate claims should be raised in a separate civil action.

STATEMENT OF CLAIM continued

B. State briefly your legal theory or cite appropriate authority.

V. RELIEF YOU REQUEST

State briefly and exactly what you want the court to do for you. Make no legal arguments. Do not use this space to state the facts of your claim. Use it only to request remedies for the injuries you complain about.

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this ____ day of _____, ____.

Signature of Plaintiff(s)

(If there are multiple plaintiffs, each must sign the complaint)

Prisoner I.D. Number(s) _____

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: (A) _____

as (B) _____ (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed.) A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) _____ District of _____ and has been assigned docket number (E) _____

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of services will be avoided if I receive a signed copy of the waiver within (F) _____ days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States.)

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

If affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of _____, _____.

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

A - Name of individual defendant (or name of officer or agent of corporate defendant)

B - Title, or other relationship of individual to corporate defendant

C - Name of corporate defendant, if any

D - District

E - Docket number of action

F - Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver.

Instructions for Completing the Petition and Affidavit to Proceed Without Prepayment of Fees and/or Costs – Read Carefully

1. **Purpose of Form** - This form may be used to establish indigency for the purpose of (1) obtaining a waiver of the applicable filing fee for your action; (2) establishing financial eligibility for the appointment of counsel; or (3) waiving of other fees, such as fees for transcripts or subpoenas.

2. **Signed Under Penalty Of Perjury** - To submit your petition and affidavit, it must be signed. Your signature indicates that the Petition and Affidavit is signed "under penalty of perjury." This means that any false statement of a material fact presented in your petition may serve as a basis for prosecution and conviction for perjury. Your signature does **not** have to be witnessed by a notary public.

3. **If You Are A Non-Prisoner Bringing a Civil Action, You Are Advised** - The filing fee for a civil action (other than a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241, § 2254 or a motion pursuant to 28 U.S.C. § 2255) is \$350.00. If you are bringing a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241, § 2254 or a motion pursuant to 28 U.S.C. § 2255, refer to number five of these instructions. If you have the money to pay the filing fee, you should send a cashier's check or money order for \$350.00, payable to the clerk of court with your complaint.

If you do not have enough money to pay the full filing fee at the time your action is filed, you may petition the court to proceed without prepayment of fees and costs by using the attached form. Upon receipt of your complaint and petition, the court will screen the complaint. The court shall dismiss your complaint if (1) your allegation of poverty is untrue - i.e., if your petition and affidavit to proceed without prepayment of fees contains false information; (2) the action is frivolous or malicious; (3) your complaint does not state a claim on which relief can be granted; or (4) you sue a defendant for money damages and that defendant is immune from such relief. 28 U.S.C. § 1915(e).

If your petition is granted, you will proceed *in forma pauperis* (IFP). This means that the \$350.00 filing fee will be waived.

If your petition is denied because you are financially ineligible to proceed IFP, you will be required to pay the full \$350.00 filing fee. Your suit will not proceed unless the fee is paid in full.

4. **If You Are a Prisoner Who Is Bringing a Civil Rights or Other Civil Action, You Are Advised** - In accordance with the provisions of the Prison Litigation Reform Act (PLRA), prisoners are obligated to pay the full filing fee of \$350.00 for a civil action. 28 U.S.C. § 1915(b)(1). If multiple prisoners are bringing a single action, one filing fee is required per prisoner.

If you have the money to pay the filing fee, you should send a cashier's check or money order for \$350.00, payable to the clerk of court with your complaint.

If you do not have enough money to pay the full filing fee at the time your action is filed, you may petition the court to proceed without prepayment of fees and costs by using the attached form. If your petition is granted, you will pay the \$350.00 filing fee in installments, beginning with an initial partial filing fee. The initial partial filing fee will be calculated from a certified copy of your prison trust account statement that shows transactions for the last six months. **The trust account statement must be filed in support**

Instructions - continued

of your petition. (Statements are required for any prison or jail trust accounts you have had over the prior six months). Failure to do so may result in the petition being denied. The initial partial filing fee will be 20 percent of:

- (1) the average monthly deposits to your account for the immediately preceding six-month period,
- or
- (2) the average monthly balance in your account for that same six-month period, whichever amount is greater.

You will be required to pay the initial partial filing fee out of your account if funds exist. 28 U.S.C. § 1915(b)(1)(A) & (B).

After the initial filing fee is paid, monthly installments equal to 20 percent of your preceding month's income will be withdrawn from your account and forwarded to the court. However, if the amount in your account is less than \$10.00, no installment will be withdrawn. Withdrawals will routinely occur until the full \$350.00 filing fee is paid. 28 U.S.C. § 1915(b)(2).

Regardless of whether some or all of the filing fee has been paid, the court is required to screen your complaint. The court shall dismiss the complaint if (1) your allegation of poverty is untrue - i.e., if your petition and affidavit to proceed without prepayment of fees contains false information; (2) the action is frivolous or malicious; (3) your complaint does not state a claim on which relief can be granted; or (4) you sue a defendant for money damages and that defendant is immune from such relief. 28 U.S.C. § 1915(e); 28 U.S.C. § 1915A.

With respect to claims based on prison conditions, no action may be brought under 42 U.S.C. § 1983 or any other federal law by a prisoner confined in a correctional institution until the available administrative remedies are exhausted. 42 U.S.C. § 1997e.

Note: If, while you are a prisoner, you file three or more actions which are dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, then you will be prohibited from bringing any other actions IFP unless you are in imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

5. If You Are a Prisoner or Pretrial Detainee Who Is Filing a Petition Pursuant to 28 U.S.C. § 2241 § 2254 or a Motion Pursuant to § 2255, You Are Advised - The filing fee for a § 2241 or § 2254 petition is \$5.00. If you have the money to pay the filing fee, you should send a cashier's check or money order for \$5.00, payable to the clerk of court with your complaint. There is no filing fee for a motion to vacate, set aside, or correct sentence pursuant to § 2255.

Note: Regardless of whether you are filing a petition pursuant to § 2241, § 2254, or a motion pursuant to § 2255, you must have an authorized officer attach a printout of your prison trust account activity statement for the six months prior to the filing of your petition.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

In the Case of

v.

Docket No. _____
(To be Supplied by Clerk)

PETITION AND AFFIDAVIT TO PROCEED
WITHOUT PREPAYMENT OF FEES AND/OR COSTS

I, _____ declare that I am the
(print your full name)

☐ Petitioner ☐ Plaintiff ☐ Movant ☐ Other _____

in the above-entitled action. In support of my request to proceed *in forma pauperis*, I declare that I am unable to pay the fees and/or costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this petition, I answer the following questions truthfully and under penalty of perjury:
(Additional pages may be added, if necessary, to provide complete information.)

Personal Information

1) Are you employed? ☐ Yes ☐ No

2) Are you currently incarcerated? ☐ Yes ☐ No

If yes, state the place of your incarceration and provide your prisoner identification number:

(place)

(number)

Personal Information - continued

In addition, if you are a prisoner, you must have an authorized officer attach a printout of your prison trust account statement showing transactions for the six-month period immediately preceding the filing of your complaint, motion, or petition and showing the balance of your release account. You must also complete the attached "Authorization for Release of Institutional Account Information and Payment of the Filing Fee."

3) Are you currently married? ☐ Yes ☐ No

If yes, is your spouse employed? ☐ Yes ☐ No

4) Do you have any legal dependents (children/adults) whom you are responsible for supporting?

☐ Yes ☐ No

If yes, list them below:

<u>First and Last Initials (For Minor Children Only) or Name</u>	<u>Relationship To You</u>	<u>Age</u>	<u>Amount of Support Provided Per Month</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

Property – If you are married, your answers must ***include your spouse's property.***

1) Do you own a car? ☐ Yes ☐ No

If yes, list car(s) below:

<u>Model and Make</u>	<u>Year</u>	<u>Approximate Current Value</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

2) Do you own your residence(s)? ☐ Yes ☐ No

If yes, state the approximate value(s). \$ _____

3) Do you own any other valuable tangible property, including but not limited to, jewelry, artwork, or antiques?

☐ Yes ☐ No

Property - continued

If yes, identify the property and its approximate value(s).

<u>Property</u>	<u>Approximate Value</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

- 4) Do you have any cash or checking, savings, or other similar accounts? ☐ Yes ☐ No

If yes, state the total amount of such sums. \$ _____

- 5) Do you own any intangible property, including but not limited to stocks, bonds, trusts, or individual retirement accounts (e.g., IRA, 401k)?

☐ Yes ☐ No

If yes, state the nature of that property and the approximate value(s).

Income – If you are married, your answers **must include your spouse's income**.

(When calculating income, you must include any salary, child support, public assistance, unemployment compensation, disability payments, life insurance payments, pensions, annuities, workers' compensation, stock dividends and interest, gifts, and inheritance, or other incoming monies.)

State your total monthly income? \$ _____

State your spouse's total monthly income? \$ _____

Expenses – If you are married and/or have dependents, **your expenses should also include your household's expenses**.

(When calculating household expenses, you may include groceries, clothing, medical costs, utilities which are not included in your rental payments, transportation, and insurance).

- 1) Identify the following amounts that you pay per month:

☐ Rent or ☐ Mortgage \$ _____

Car payment(s) \$ _____

Expenses - continued

Alimony and/or court-ordered
child support \$ _____

Credit card payment(s) \$ _____

2) Do you have any other monthly expenses that you have not already identified?

☐ Yes ☐ No

If yes, list them below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

3) What is the total amount of your monthly expenses? \$ _____

Other Circumstances – *Describe any other financial circumstance(s) that you would like the court to consider when reviewing this petition.*

Date

Signature – Signed Under Penalty of Perjury

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

In the Case of

v.

Docket No. _____
(To be Supplied by Clerk)

**AUTHORIZATION FOR RELEASE OF INSTITUTIONAL ACCOUNT INFORMATION AND
PAYMENT OF THE FILING FEE**

Instructions

Use this Authorization:

If you are a prisoner filing a civil rights or other civil action, complete this authorization.

Do not use this Authorization:

1. If you are not a prisoner
2. If you are a prisoner or are "in custody" and are petitioning the court for a writ of habeas corpus under § 2254 or § 2241
3. If you are a prisoner filing a motion to vacate, set aside, or correct your sentence under § 2255.

* * * * *

I, _____
(Name of Plaintiff)

(Prison I.D. Number)

I authorize the clerk of court to obtain from the agency having custody of my person, information about my prison trust account, including balances, deposits, and withdrawals until the filing fee is paid. I understand that, when sufficient funds exist in my prison trust account, I will be required to pay an initial partial filing fee equal to 20 percent of the greater of: (A) the average monthly deposits to my account for the six-month period immediately preceding the filing of my complaint or notice of appeal, or (B) the average monthly balance in my account for the six-month period immediately preceding the filing of the complaint or notice of appeal. I understand and hereby authorize that, after payment of the initial partial filing fee, monthly payments will be forwarded to the clerk of court equal to 20 percent of the preceding month's income credited to my account. I hereby authorize the agency or facility having custody of my person to withdraw funds from my prison trust account and forward such payments from my account to the clerk of court each time the amount in the account exceeds \$10.00, until the filing fee is paid as set forth in 28 U.S.C. § 1915(b)(2).

(Signature of Plaintiff)

(Date)

NOTE: A CERTIFIED COPY OF YOUR PRISON TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF YOUR COMPLAINT MUST ACCOMPANY THIS PETITION AND AFFIDAVIT. (Statements are required for any prison or jail trust accounts you have had over the prior six months.)